

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

STATE OF NEW JERSEY

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
TRANSPORTATION, *et al.*,

Defendants,

and

METROPOLITAN TRANSPORTATION
AUTHORITY, *et al.*,

Defendant-Intervenor,

Case No.: 23-3885 (LMG-LDW)

PLAINTIFF’S NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff State of New Jersey submits this Notice of Supplemental Authority to inform the Court of the District of Columbia Court of Appeals’ decision in *City of Port Isabel, et al. v. Federal Energy Regulatory Commission*, No. 23-1174 (D.C. Cir. Aug. 6, 2024). Attached is a copy of the Court of Appeals’ decision vacating the Federal Energy Regulatory Commission (“FERC”)’s approval of natural gas export terminal and pipeline reauthorizations on the grounds that FERC’s decision not to issue a supplemental Environmental Impact Statement (“EIS”) for its environmental justice analysis was arbitrary, capricious, and in violation of the National Environmental Policy Act (“NEPA”). The opinion confirmed that “NEPA requires an EIS if any significant impacts ‘*might* result’ from the proposed action, not only when it definitively concludes that a significant impact *will* result.” *Id.* at 15 (citations omitted). Moreover, although the agency

“did solicit public comment as to some of the data underlying its environmental justice analysis,” “it did not solicit *any* public comment on the *final* cumulative air emissions model”—exactly what Defendants and Intervenor-Defendants did here with their final tolling scheme. *Id.* at 18 (emphasis added).

Respectfully submitted,

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August 20, 2024

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